

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00772A

Parcel No. 170/00421-552-000

JANIS HENDRICKSON,

Appellant,

v.

POLK COUNTY BOARD OF REVIEW,

Appellee.

On October 21, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code chapter 701-126. Janis Hendrickson was self-represented. Assistant County Attorney Christina Gonzalez is counsel for the Polk County Board of Review and represented it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Hendrickson is the owner of agricultural property located in Clay Township along NE 80th Street, outside of Altoona in Polk County. The subject property is 13.398 acres of land with no improvements.

The property's January 1, 2015, assessment was \$13,200. Hendrickson protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property; and that there was an error in the assessment under Iowa Code section 441.37(1)(a)(1)(a) and (d). She asserted the Corn Suitability Rating (CSR) points used in the assessment were incorrect and that the site is highly erodible and untillable. The Board of Review denied the protest. Hendrickson then

appealed to PAAB and asserted the property's assessment should be \$6,190, which was the 2014 assessed value. Although Hendrickson asserts her property is not equitably assessed she did not provide any evidence for an equity claim. We will proceed only on the claim of error.

Hendrickson provided a history of the subject site dating back to the late 1990's when it was owned by Gilbert Thomas. (Exs. 9 & 10). Thomas engaged in illegal dumping of toxic waste on the site, which also drained into Mud Creek that abuts the north edge of subject site. Hendrickson also testified that remediation of the site occurred prior to her purchase of it in 2002. As part of the remediation, Hendrickson testified the EPA did millions of dollars of clean up, including removing a large portion of the topsoil. For this reason, it is her opinion that the site can only be used for pasture or hay crop, which is its current use.

Hendrickson asserts that because of the removal of the topsoil, along with the slope of the site, the ground is not tillable and the Corn Suitability Rating (CSR) rating for the site is incorrect.

In support of her opinion that the CSR rating is incorrect, Hendrickson submitted a soil survey from Iowa State University Extension and Outreach. (Ex. 5). Ann Johanns, an Extension Program Specialist with Iowa State University, created this survey for Hendrickson. The following chart is a summary of the survey.

Soil Type	CSR2	Acres	Total Rating by Soil Type
Storden Loam, 14%-18% slope, moderately eroded	24	4.9	118
Clarion Loam, 9%-14% slope, moderately eroded	56	4.1	230
Coland, occasionally flooded, terril complex, 2%-5% slope	78	0.8	62
Clarion Loam, Bemis moraine, 2%-6% slope	88	0.1	9
Clarion Loam, Bemis moraine 6%-10% slope, moderately eroded	83	2.4	199
	TOTAL	12.3	618

We note the survey provided by Iowa State includes only 12.3 acres, whereas Hendrickson's site is 13.398 acres. The average CSR2 indicated by this survey is 50.2

(618 total rating divided by 12.3 acres). The survey does not distinguish between cropland or non-cropland area.

Tammy Berenguel, a support supervisor with the Polk County Assessor's Office, testified on behalf of the Board of Review. Agricultural land is assessed based on the parcel's CSR, which provides a relative ranking of all soils mapped in the state of Iowa based on their potential to be utilized for intensive row crop production. The Department of Revenue adopted the new CSR2 system in 2013, which was developed and is maintained by the Natural Resource Conservation Service (NRCS). The Department mandated all assessors use the CSR2 on or before 2017.

Berenguel testified that the new CSR2 rating system was implemented by Polk County for the 2015 assessment. She also explained that the 2015 assessment relied on the soil survey maps created by Iowa State University. The following chart summarizes the CSR2 soils and use detail of the subject site. (Ex. A. p. 2).

Use	Soil Type	CSR2	Acres	Total Rating by Soil Type
Crop Land	Clarion	86	0.4489	38.61
Crop Land	Clarion	82	2.9226	239.65
Crop Land	Coland	78	0.3111	24.27
Crop Land	Clarion	56	4.0998	229.59
Crop Land	Storden	24	3.8469	92.33
Non-Crop Land	Coland	78 (47)	0.5582	26.24
Non-Crop Land	Storden	24	1.2105	29.05
		TOTAL	13.398	679.74

Berenguel testified that the CSR2 rating determined by Iowa State includes adjustments for slope, erosion, and drainage; and that the higher the rating, the better the soil. She also noted that in Polk County if non-cropland has a CSR2 above 41, it is adjusted downward. This explains the adjustment to the Coland soil type for the non-crop land identified in the chart above. The average CSR2 indicated by the Assessor's use summary is 50.7344 (679.74 total rating divided by 13.398 acres). The average rating between the survey submitted by Hendrickson (50.2) and the survey relied on by the Assessor's Office (50.7344) is nearly identical despite Hendrickson's survey failing

to consider roughly an acre of the subject site. Moreover, we note the soil types and CSR2 ratings are also similar.

Berenguel further explained that the total rating by soil type is multiplied by the rate of \$19.42 to determine a computed value per soil type. The rate is specific to Polk County and is determined on a five-year average of productivity and net earnings data. The following chart summarizes these calculations resulting in the total assessed value for the subject site. (Ex. A, p. 2).

Total Rating by Soil Type	Rate	Computed Value
38.61	\$19.42	\$749.81
239.65	\$19.42	\$4654.00
24.27	\$19.42	\$471.32
229.59	\$19.42	\$4458.64
92.33	\$19.42	\$1793.05
26.24	\$19.42	\$509.58
29.05	\$19.42	\$564.15
	Total	\$13,200.55

Hendrickson questioned Berenguel about when the soil survey was conducted; moreover, if the survey was reassessed after the toxic waste cleanup of the subject site. Berenguel explained that the CSR2 survey is a relatively recent survey conducted by Iowa State University and probably occurred within the last ten years; however, she does not know exactly when it created the survey.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see *also Hy-Vee*,

Inc. v. Employment Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

Hendrickson contends there is an error in her assessment under section 441.37(1)(a)(1)(d). Section 441.37(1)(a)(1)(d) is not limited solely to clerical or mathematical errors, but includes other claims of error. Iowa Admin. Code r. 701-71.20(4)(b)(4) (noting improper classification also constitutes an error).

The parcel at issue carries an agricultural classification, which requires it be valued using the set formula. See Iowa Admin. Code r. 701-71.3, 701-71.12. Iowa Code section 441.21(1)(e) provides that agricultural real estate be assessed by giving exclusive consideration to its productivity and net earning capacity. In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from Iowa State University, the Iowa crop and livestock reporting service, the Department of Revenue, the IOWA REAL PROPERTY APPRAISAL MANUAL, and to consider the results of a modern soil survey, if completed. § 441.21(1)(f); Iowa Admin. Code r. 701-71.3. The Assessor's Office is also required to determine which portion of the property qualifies as non-cropland and make adjustments to non-cropland in future years. R. 701- 71.3(1)(b-c); IOWA DEPARTMENT OF REVENUE, IOWA REAL PROPERTY APPRAISAL MANUAL 2-25 to 2-34.

Hendrickson provided a soil survey she obtained from Iowa State University. (Ex 5.) While it did not appear to include the entirety of her site, the results were similar to the results from the Polk County survey – also obtained from Iowa State University. (Ex. A, p. 2). No other evidence was submitted to show that the designation of cropland/non-cropland ground is inaccurate, or that the current valuation based on the CSR2 rating results in an error. Because of Hendrickson's testimony suggesting that certain portions of her property are no longer suitable for row crop farming due to soil loss, however, we suggest Hendrickson contact the Assessor's Office to arrange an

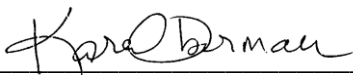
inspection of her property to determine if the cropland/non-cropland designations reflect the current status of the property in advance of the 2016 assessment.

Order

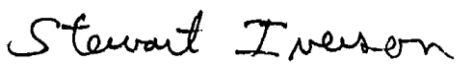
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 9th day of November, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Janis Hendrickson

Christina Gonzalez